

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

DEANDRE SCOTT ESTELLE,

Petitioner-Defendant,

v.

**CIVIL ACTION NO. 5:15-CV-23
CRIM. ACTION NO. 5:12-CR-20-6
(BAILEY)**

UNITED STATES OF AMERICA,

Respondent-Plaintiff.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge John S. Kaull [Civ. Doc. 9 / Crim. Doc. 1026]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Kaull filed his R&R on July 1, 2015, wherein he recommends this Court dismiss the 28 U.S.C. § 2255 petition with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Kaull's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). After a brief extension, the petitioner filed his Objections [Civ. Doc. 11] on August 12, 2015.

The petitioner's Objections states: "Hence, petitioner simply express[es] objection to all the Magistrate's findings or recommendations in total; and further, seek to reinforce and affirmatively certify all original claims acknowledged by the Magistrate's R&R, and followed-up with traverse (also recognized by Magistrate's R&R). In other words, Petitioner completely object[s] to all the Magistrate's findings with relation to foregoing enumerated claims" [Civ. Doc. 11]. Such a blanket objection does not warrant *de novo* review. "To the extent petitioner fails to point to a specific error in the R&R and simply makes conclusory objections, the Court need not conduct a *de novo* review. **Smith v. Washington Mut. Bank FA**, 308 F.App'x 707, 708 (4th Cir. 2009) ('The court need not conduct *de novo* review . . . "when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations."') (quoting **Orpiano v. Johnson**, 687 F.2d 44, 47 (4th Cir. 1982))." **Cabbagestalk v. McFadden**, 2015 WL 4077211 (D.S.C. July 1, 2015).

Therefore, upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Civ. Doc. 9 / Crim. Doc. 1026]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. The petitioner's Objections **[Civ. Doc. 11 / Crim. Doc. 1031]** are **OVERRULED**.

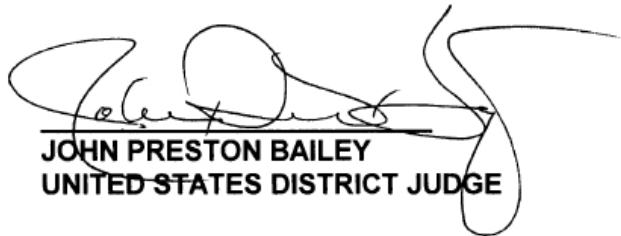
Accordingly, this Court **ORDERS** that the petition [**Civ. Doc. 1 / Crim. Doc. 1009**] be **DISMISSED WITH PREJUDICE**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the respondent and to **STRIKE** this case from the active docket of this Court.

As a final matter, upon an independent review of the record, this Court hereby **DENIES** a certificate of appealability, finding that Mr. Estelle has failed to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: August 24, 2015.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE